

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7
Scheherazade, Inc.

Debtor.

**NOTICE OF HEARING AND MOTION OBJECTING TO CLAIM OF
TERESA FLEMING**

TO: The claimant and other entities specified in Local Rules 9013-3(a) and 3007-1:

1. Nauni Manty, the chapter 7 trustee of the bankruptcy estate of the debtor, moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion on **Wednesday, May 6, 2020, at 9:30 a.m.**, before the Honorable Kathleen H. Sanberg, in Courtroom No. 8 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota 55415.

3. Any response to this motion must be filed and served not later than **Friday, May 1, 2020**, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. The petition commencing this chapter 7 case was filed on March 10, 2019. This proceeding is a core proceeding. This case is now pending before this court.

5. This motion arises under 11 U.S.C. §§ 502, Fed. R. Bankr. P. 3007, 9013 and 9014 and Local Rules 3007-1, 9006-1, 9013-1 and 9013-3.

6. Teresa Fleming filed an unsecured claim of \$1,000. *See* Claim No. 27. A copy of the claim is attached as Exhibit A. The claim arises out of the sale of the consignment jewelry sold by the debtor, pre-petition. The jewelry was sold pursuant to a Consignment Merchandise agreement between the debtor and Ms. Fleming, which is attached to the claim. Pursuant to the agreement, Ms. Fleming is entitled to \$600 of the proceeds from the sale of the consigned jewelry. The trustee objects to the claim because it seeks the gross sale value of the sale proceeds rather than the net owed to Ms. Fleming.

7. The trustee requests that Claim No. 27 be reduced to \$600, the net value of the proceeds due to Ms. Fleming under the consignment agreement.

WHEREFORE, the trustee requests that the objection to the claim of Teresa Fleming be sustained and the claim be reduced to \$600.

MANTY & ASSOCIATES, P.A.

Dated: April 2, 2020

/e/ Mary F. Sieling

Nauni Manty (#230352)

Mary F. Sieling (#389893)

401 Second Avenue North, Suite 400

Minneapolis, MN 55401

Phone: (612) 465-0990

Email: mary@mantylaw.com

Attorneys for the Chapter 7 Trustee

Fill in this information to identify the case:

Debtor 1 Scheherazade, Inc.

Debtor 2

(Spouse, if filing)

United States Bankruptcy Court District of Minnesota

Case number: 19-40658

FILED

U.S. Bankruptcy Court
District of Minnesota

3/27/2019

Lori Vosejpka, Clerk

Official Form 410
Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

| | | |
|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Who is the current creditor? | <u>Teresa Fleming</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____ | |
| 2. Has this claim been acquired from someone else? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____ | |
| 3. Where should notices and payments to the creditor be sent? | Where should notices to the creditor be sent? <u>Teresa Fleming</u> Name 4035 West 65th Street #122 Edina MN 55435 Contact phone <u>9043338444</u> Contact email <u>trs.fleming@gmail.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____ | Where should payments to the creditor be sent? (if different) _____ Name _____ Contact phone _____ Contact email _____ |
| 4. Does this claim amend one already filed? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY | |
| 5. Do you know if anyone else has filed a proof of claim for this claim? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ | |

Part 2: Give Information About the Claim as Documented in the Case Filed

| | | | | | | | | | | | |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------|---------------------------------------------|----------|-----------------------------------------------|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|----------|---------------------------------------------------|---------|
| 6. Do you have any number you use to identify the debtor? | <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____ | | | | | | | | | | |
| 7. How much is the claim? | \$ 1000.00 <div style="float: right; text-align: right;"> Does this amount include interest or other charges? <input type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). </div> | | | | | | | | | | |
| 8. What is the basis of the claim? | Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information. would like item returned that I left to be consigned with a business that filed bankruptcy | | | | | | | | | | |
| 9. Is all or part of the claim secured? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) <table style="width: 100%;"> <tr> <td style="width: 50%;">Value of property:</td> <td style="width: 50%;">\$ _____</td> </tr> <tr> <td>Amount of the claim that is secured:</td> <td>\$ _____</td> </tr> <tr> <td>Amount of the claim that is unsecured:</td> <td>\$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</td> </tr> </table> <table style="width: 100%;"> <tr> <td style="width: 60%;">Amount necessary to cure any default as of the date of the petition:</td> <td style="width: 40%;">\$ _____</td> </tr> </table> <table style="width: 100%;"> <tr> <td style="width: 60%;">Annual Interest Rate (when case was filed)</td> <td style="width: 40%;">_____ %</td> </tr> </table> <input type="checkbox"/> Fixed <input type="checkbox"/> Variable | Value of property: | \$ _____ | Amount of the claim that is secured: | \$ _____ | Amount of the claim that is unsecured: | \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) | Amount necessary to cure any default as of the date of the petition: | \$ _____ | Annual Interest Rate (when case was filed) | _____ % |
| Value of property: | \$ _____ | | | | | | | | | | |
| Amount of the claim that is secured: | \$ _____ | | | | | | | | | | |
| Amount of the claim that is unsecured: | \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) | | | | | | | | | | |
| Amount necessary to cure any default as of the date of the petition: | \$ _____ | | | | | | | | | | |
| Annual Interest Rate (when case was filed) | _____ % | | | | | | | | | | |
| 10. Is this claim based on a lease? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____ | | | | | | | | | | |
| 11. Is this claim subject to a right of setoff? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____ | | | | | | | | | | |

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| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| 12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Check all that apply. | Amount entitled to priority |
| A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority. | <input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). | \$ _____ |
| | <input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). | \$ _____ |
| | <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). | \$ _____ |
| | <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). | \$ _____ |
| | <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). | \$ _____ |
| | <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies | \$ _____ |
| * Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment. | | |

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

- ☒ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 3/27/2019
MM / DD / YYYY

/s/ Teresa T Fleming

Signature

Print the name of the person who is completing and signing this claim:

| | | | |
|---------------|--------------------------------------------------------------------------------------|-------------|------------------------------|
| Name | <u>Teresa T Fleming</u> | | |
| | First name | Middle name | Last name |
| Title | _____ | | |
| Company | <u>1944</u> | | |
| | Identify the corporate servicer as the company if the authorized agent is a servicer | | |
| Address | <u>4035 West 65th Street, Apt. 122</u> | | |
| | Number | Street | |
| | <u>Edina, MN 55435</u> | | |
| | City | State | ZIP Code |
| Contact phone | <u>9043338444</u> | Email | <u>trs.fleming@gmail.com</u> |

FAX COVER SHEET

TO

COMPANY

FAX NUMBER 19525008697

FROM CourtneyRider

DATE 2019-03-22 21:25:14 GMT

RE

COVER MESSAGE

Scheherazade Consignment Merchandise Form

Consignor Information:

Name: Teresa T. Fleming Phone(s): 904-333-8444Address: 4035 West 65th St #122 Edina, MN 55435Email: tf.fleming@gmail.com Other Contact Information: _____Description of Consigned Item per Consignor (One item per Form): Diamond & SapphireBracelet & RingValue of Consigned Item per Consignor (what is item insured for?): N/A

Consignment Program Terms:

1. Consignor (hereafter referred to as You) agree to leave your item on consignment for a minimum of 6 months. Also, this item will not be cross-marketed (i.e. eBay), etc. by the consignor or an agent during this time period.

2. You will receive 60% of the price for which the item is sold, & Scheherazade will receive 40%.

NOTE: Scheherazade has a 90 day waiting period between the sale of your item & payment to the consignor. Your share of the selling price will be paid approximately 91 days after the day of the sale.

3. For the item covered by this Agreement, you have authorized a Tag/Selling price of \$ 1000 -

Customer: \$ 600 - Scheherazade: \$ 400 -

If Scheherazade receives an offer for your item which is below the above Tag price, the lowest selling price you authorize Scheherazade to accept is \$ Call

Customer: \$ _____ Scheherazade: \$ _____

4. You agree that Scheherazade, in our sole discretion, reserves the right not to display consignment items during certain promotions, events, etc.

5. You represent, & intend for Scheherazade to rely on the representation, that on the consigned item you currently own, & during the term of the consignment you will maintain primary insurance for the item with:

N/A (Name of Ins. Co.; a Certificate of Insurance is appreciated).Agreed & signed, this 10th day of Jan, 2019 at Edina, MN 55435.By: [Signature]
Scheherazade Authorized SignatureConsignor Signature: Teresa Fleming
I certify under penalty of perjury that to my knowledge the information above is true & complete, & I am the owner, or have authority of the owner, to sell or pledge the property.

Date Sold: ___/___/___ Receipt # _____ CAMS # _____ Price Sold For \$ _____

Returned to Consignor Date: ___/___/___ Consignor Signature for Return: _____

VERIFICATION

I, Nauri Manty, the trustee and movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information and belief.

Dated: April 2, 2020



Nauri Manty, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7

Scheherazade, Inc,

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I declare under penalty of perjury that on April 2, 2020, I caused copies of the following documents to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the ECF participants:

**Notice of Hearing and Motion Objecting to Claim of Teresa Fleming, Verification,
Proposed Order and this Unsworn Certificate of Service,**

I further declare that I caused copies of the foregoing documents to be mailed by first class mail, postage prepaid, to the following non-ECF participants:

Teresa Fleming
4035 West 65th St, #122
Edina, MN 55435

Scheherazade, Inc.
3181 W 69th St
Edina, MN 55435

Robert K Dakis
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

David J Kozlowski
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

Joseph T Moldovan
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

Wells Fargo Vendor Financial Serv, LLC fka
GE Capital Information Tech Solutions
c/o a Ricoh USA Program fdba Ikon Financ
PO Box 13708
Macon, GA 31208-3708

Dated: April 2, 2020

/s/ Kevin Carnahan
Kevin Carnahan, Legal Assistant
Manty & Associates, P.A.
401 Second Avenue North, Suite 400
Minneapolis, Minnesota 55401

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7
Scheherazade, Inc,
Debtor.

ORDER

This matter came on before this court on the motion of the chapter 7 trustee objecting to the claim of Teresa Fleming, Claim No. 27. Based upon all of the files, records and proceedings herein,

IT IS ORDERED: that the trustee's objection to the claim of Teresa Fleming is sustained and the claim is reduced to \$600.

Dated:

Kathleen H. Sanberg
United States Bankruptcy Judge